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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,717	06/27/2003	Ralph Schwarz	J-3867	6908
28165 7590 06/08/2005 S.C. JOHNSON & SON, INC. 1525 HOWE STREET RACINE, WI 53403-2236			EXAMINER HOPKINS, ROBERT A	
			ART UNIT 1724	PAPER NUMBER
DATE MAILED: 06/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/608,717

Applicant(s)

SCHWARZ, RALPH

Examiner

Robert A. Hopkins

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1-20,9-27,2-1</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

Claims 13 and 19 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claims 13 and 19 recite "wherein the dispensing system operates at ambient room temperature". Examiner notes that claims 13 and 19 recite a function of the system, but do not further limit the structural limitations of the dispensing system of claims 1 and 17.

Claim Rejections - 35 USC § 112

Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. A reservoir for holding volatile liquid is critical or essential to the practice of the invention, but not included in claims 1 and 17 is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). Examiner notes that the preamble to claims 1 and 17 is directed to "a dispensing system for a volatile liquid", however the body of the claim does not include a reservoir for holding volatile liquid. Without such a reservoir claimed, the system is simply a fan which passes air over a capillary member with no liquid passing through the capillary member. Claims 2-16 depend on claim 1 and hence are also rejected. Claims 18-20 depend on claim 17 and hence are also rejected.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,13,14,16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Yurdin(3633881).

Yurdin teaches a dispensing system for a volatile liquid comprising a fan(60) adapted to generate an airstream and a capillary member(54) having a body, in which a portion of the body is positioned within the airstream(see figure 2) with the fan activated, in which the portion of the body is impervious to passage of the air stream therethrough in a direction of the air stream and in which the air stream passes unobstructed over opposing surfaces of the capillary member aligned generally transverse to the direction of the air stream. Yurdin further teaches wherein the dispensing system includes a housing(14) in which the portion of the body and the motorized fan are positioned within an enclosure of the housing. Yurdin further teaches wherein the capillary member is in communication with a reservoir(32) for holding the volatile liquid. Yurdin further teaches wherein a motor for the fan turns the fan according to predetermined cycle when power is supplied to the motor, the cycle comprising a motor"on" period of a predetermined length of time and a motor "off" period of a predetermined length of time(column 4 lines 4-13). Yurdin further teaches wherein another portion of the capillary member is

Art Unit: 1724

positioned inside a reservoir containing the volatile liquid. Yurdin further teaches wherein the capillary member includes a first section(62) formed using a material with a predetermined pore size and a second section(54) formed using a material with a predetermined pore size that is different from that of the material of the first section. Yurdin further teaches wherein the ratio of the pore size of the second section to the first section is greater than about two.

Claims 17,19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Yurdin(3633881).

Yurdin teaches a dispensing system for a volatile liquid comprising a dispenser having a housing(14) defining an interior, a fan(60) coupled with the housing and adapted to generate an air stream, and a capillary member(54) having a portion positioned to be immersed in the air stream in which the portion of the capillary member is spaced apart from any interior portion of the housing.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8,11-13,16 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Pedrotti(6862403).

Pedrotti teaches a dispensing system for a volatile liquid comprising a fan(260) adapted to generate an airstream and a capillary member(190) having a body, in which a portion of the body is positioned within the airstream with the fan activated, in which the portion of the body is impervious to passage of the air stream therethrough in a

Art Unit: 1724

direction of the air stream(note wick is made of ultra high molecular weight high density polyethylene; column 3 lines 47-49) and in which the air stream passes unobstructed over opposing surfaces of the capillary member aligned generally transverse to the direction of the air stream(note figure 3 wherein the wick is unobstructed when placed inside the shell 150). Pedrotti further teaches wherein the dispensing system includes a housing(150 and 220) in which the portion of the body and the motorized fan are positioned within an enclosure of the housing. Pedrotti further teaches wherein the capillary member is in communication with a reservoir(120) for holding the volatile liquid. Pedrotti further teaches wherein the blade of the fan has a dimension R extending from an axis of rotation of the fan blade to an edge of the fan blade farthest from the axis of rotation, and the portion of the body of the wick is positioned to be immersed in the air stream generated by the fan, in which the body of the wick has a width W which does not exceed $1.2R$. Pedrotti further teaches a guide(340) associated with the fan defining an opening, having a predetermined dimension, to selectively receive the capillary member and to position the portion of the body such that the portion of the body is in the air stream when the fan is activated. Pedrotti further teaches wherein the dispensing system includes a housing to which the fan is mounted and the guide comprises opposing sidewalls defining an opening in the housing Pedrotti further teaches wherein a fan blade of the fan has a length R measured from an axis of rotation of the fan to the farthest end of the fan blade away from the axis of rotation, and wherein the predetermined dimension of the opening does not exceed $1.25R$. Pedrotti further teaches wherein the guide is adapted to position the capillary member within a

Art Unit: 1724

cylindrical volume centered along an axis of rotation of the fan and having a radius which extends from the axis of rotation to the farthest extension of a fan blade of the fan. Pedrotti further teaches wherein another portion of the capillary member is positioned inside a reservoir containing the volatile liquid. Pedrotti further teaches wherein the capillary member includes a first section(190) formed using a material with a predetermined pore size and a second section(210) formed using a material with a predetermined pore size that is different from that of the material of the first section. Pedrotti further teaches wherein the ratio of the pore size of the second section to the first section is greater than about two.

Claims 17-20 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Pedrotti(6862403).

Pedrotti teaches a dispensing system for a volatile liquid comprising a dispenser having a housing(150 and 220) defining an interior, a fan(260) coupled with the housing and adapted to generate an air stream, and a capillary member(190) having a portion positioned to be immersed in the air stream in which the portion of the capillary member is spaced apart from any interior portion of the housing. Pedrotti further teaches wherein the portion of the capillary member is positioned within a cylindrical volume centered along an axis of rotation of the fan and having a radius which extends from the axis of rotation to the farthest extension of a fan blade of the fan(note the sheath 210 is not required; column 3 lines 46-47). Pedrotti further teaches wherein the portion is positioned generally transverse to an axis of rotation of the fan.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yurdin(3633881).

Yurdin teaches all of the limitations of claim 15 but is silent as to wherein the ratio of predetermined period of length of time of the motor being "on" to the predetermined length of time of the motor being "off" is approximately 1 to 3. Examiner notes that programming the timer of Yurdin to a specific ratio of on to off time is a matter of routine experimentation, therefore it would have been obvious to someone of ordinary skill in the art at the time of the invention to provide for a ratio of predetermined period of length of time of the motor being "on" to the predetermined length of time of the motor being "off" is approximately 1 to 3 so that the vapor of the volatile liquid is dispensed for an optimum period of time.

Allowable Subject Matter

Claims 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 9 recites "wherein the capillary member has an external surface and a discontinuity in the surface providing a location in the capillary member having less

Art Unit: 1724

resistance to a force applied to the capillary member than a location adjacent to the discontinuity". Both Yurdin and Pedrotti et al teach a capillary member with no discontinuity along the length of the capillary member. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a capillary member which has an external surface and a discontinuity in the surface providing a location in the capillary member having less resistance to a force applied to the capillary member than a location adjacent to the discontinuity because neither Yurdin nor Pedrotti suggest such a modification. Claim 10 depends on claim 9 and hence would also be allowable upon incorporation of claim 9 into claim 1.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Varanasi et al (2004/0265196) teaches a dispensing system of claims 1 and 17, however the application was filed on the same day as the current application, therefore the application is not a valid 102(e) reference.


Art Unit: 1724

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Hopkins whose telephone number is 571-272-1159. The examiner can normally be reached on Monday-Friday, 7am-4pm, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.(toll-free).

Rah
June 2, 2005


ROBERT A. HOPKINS
PRIMARY EXAMINER
A.U. 1724